

The complaint

Mr M complains that NewDay Ltd made it impossible for him to carry out a balance transfer.

What happened

Mr M had a store card account with a third party, who ceased trading. His account was sold to NewDay in 2021. NewDay closed his account, which meant that he could not carry out a balance transfer of his account balance. Since then, most of his monthly payments have been consumed by interest, rather than reducing his account balance; the interest rate is 33.43%. Mr M estimates that he has already paid more in interest than the original debt. His complaint is that he can no longer transfer his balance to an account with a 0% interest rate. He says he feels handcuffed to NewDay.

NewDay did not uphold Mr M's complaint, but as a gesture of goodwill it refunded £33.32 in interest. Being dissatisfied with that outcome, Mr M referred this complaint to our service.

Our investigator upheld this complaint. He said that Mr M had not been given an opportunity to move his balance to another lender (or to another NewDay account) before his account had been closed. He recommended that NewDay refund all of the interest that had been charged since Mr M's account had been closed.

NewDay said it had given Mr M eleven weeks' notice before closing his account. But the investigator did not change his mind, because the letter NewDay has sent to Mr M to tell him his account was going to be closed had been so poorly worded that it read as if his account had been closed already. NewDay asked for an ombudsman to review this case.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have looked at NewDay's internal account notes, and there is an entry dated 5 May 2021 which says: "Customer mailed account closure notice. Account will be automatically closed, on 16/07/2021". The next relevant entry is dated 21 July 2021, and it says: "Account closed as per closure notice sent on 04/05/2021". (There is also a duplicate entry dated 11 August.) So I'm satisfied that the account was closed well after the account closure notice was sent, but unfortunately the wording of that notice was rather unhelpful.

The first paragraph of the notice (dated 4 May 2021) read as follows:

"As you know, your Outfit Mastercard account is closed. However, as your credit agreement relating to that account remains in force (due to there being an outstanding balance on the account), we are obliged to inform you of any changes to your account."

That opening sentence said quite clearly that the account was already closed; not even closed from the date of the notice, but closed on some earlier occasion. That was not

accurate, because the account was in fact still open, but Mr M would not have known that. It follows that he did not know that he still had time to make a balance transfer to another provider.

The letter does go on to say that the Outfit account will be re-branded as Pulse in July, but there is nothing in that paragraph, or anywhere else in the letter, to say that is when the account will be closed. In fact, the letter just repeats that the account is already closed.

I have noted that this is not the actual letter that was sent to Mr M – that is no longer available – but a template letter which is the closest evidence which NewDay could find to show what would have been sent to him at the time. However, as this is the best available evidence of what Mr M was told, I think it is reasonable to rely on it. I can't be certain that it is word-for-word identical to the letter which was sent to Mr M, but on the balance of probabilities I am satisfied that this template letter conveys the same or substantially the same meaning as the letter which was sent to Mr M. NewDay told our investigator that the template letter "is illustrative of the content that would have been provided at the time."

Principle 7 of the FCA's Principles for Businesses says: "A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading." Since the template letter is actively misleading, I am satisfied on the balance of probabilities that NewDay failed to adhere to that rule when it wrote to Mr M in May 2021. The result was that Mr M thought it was too late to effect a balance transfer, which was not actually the case. That led to him incurring interest that could have been avoided. On that basis, I uphold this complaint.

Putting things right

I broadly agree with the investigator's proposed redress, but as a balance transfer is now impossible, I will amend it slightly.

NewDay must:

- Refund all interest charged on Mr M's account since 16 July 2021 (it need not refund the gesture of goodwill twice, so this should be taken into account);
- If that refund results in a credit balance, then this must also be refunded to Mr M, along with simple interest on that refund at the rate of 8% per year from that date to the date of settlement;
- Otherwise if an outstanding balance still remains, then NewDay must not charge interest on it going forward (but if he fails to make a minimum payment after the date of this decision, then this will not prevent interest from being charged in the month in which that occurs and on any arrears which remain outstanding after that);
- Any negative information recorded on Mr M's credit file in relation to the account between 16 July 2021 and 10 May 2024 must be removed from his credit file.

If NewDay considers that it is required by HM Revenue & Customs to withhold income tax from the interest (if any), then it must tell Mr M how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HMRC if he is entitled to. Mr M should refer back to NewDay if he is unsure of the approach it has taken, and both parties should contact HMRC if they want to know more about the tax treatment of this portion of the compensation.

My final decision

My decision is that I uphold this complaint. I order NewDay Ltd to put things right in the way I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 June 2024.

Richard Wood
Ombudsman